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Sent: Friday, September 15, 2017 1:06 PM
To: DSS_Licensing
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This file is being sent to assisted living facilities and adult day care centers from the Virginia Department of Social Services Email Distribution Service.

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The Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers, 22 VAC 40-90, will be published as a final regulation in the Virginia Register of Regulations, Volume 34, Issue 2, on September 18, 2017. The Virginia Register of Regulations may be found on its website at <http://register.dls.virginia.gov>. Volume 34, Issue 2 will be available starting on September 18. This is an action exempt from some of the requirements of the Administrative Process Act in the Code of Virginia as the amendments to the regulation merely reflect revisions to the Code.

The listing of barrier crimes for ALFs and ADCCs was moved from § 63.2-1719 to § 19.2-392.02 of the Code and was expanded to include additional crimes. As a result of these changes, the definition of barrier crimes in 22 VAC 40-90-10, the definition section of the regulation, was amended to include the additional crimes, as well as change the reference to the Code of Virginia.

Regarding allowing ALFs and ADCCs to hire a person convicted on one misdemeanor barrier crime not involving abuse or neglect, if five years has elapsed following the conviction, § 63.2-1720 of the Code added that a person may also continue to be employed at such facilities or centers under the same conditions. As a result of this addition, the definition of barrier crimes in the definition section of the regulation was changed to allow for continuous employment under such circumstances.

Another amendment in the Code that resulted in a revision in the definition section of the regulation was that the terminology referring to “an equivalent offense in another state” was amended to “any substantially similar offense under the laws of another jurisdiction.”

There were also technical changes made in the definition section and in 22 VAC 40-90-70, the section on issuance of a license in the regulation, as a result of the Code amendments.

The effective date of the amended regulation is October 19, 2017.